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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/719,721	12/16/2000	Joji Yoshimura	2013/19	3612

7590

10/03/2002

Kenyon & Kenyon
One Broadway
New York, NY 10004

EXAMINER

TSANG FOSTER, SUSY N

ART UNIT	PAPER NUMBER
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1745

DATE MAILED: 10/03/2002

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/719,721

Applicant(s)

YOSHIMURA ET AL. 

Examiner

Susy N Tsang-Foster

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4, 5 6) ☐ Other:

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The information disclosure statements filed on 12/15/2000 and 2/7/2001 have been considered.

Specification

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

4. The abstract of the disclosure is objected to because it exceeds 150 words in length.

Correction is required. See MPEP § 608.01(b).

5. The disclosure is objected to because of the following informalities:

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The use of the phrase “rugged shapes” throughout the specification does not appear to accurately reflect the Figures since the word “rugged” is defined as “having a rough uneven surface” as defined in Merriam Webster’s Collegiate Dictionary (Tenth Edition, Merriam-Webster, Incorporated (1997), p. 1023). The Figures do not show rough uneven surface shapes but even projections that are regularly spaced instead.

The use of the phrase “fuel cells stack” throughout the specification should be “fuel cell stack”.

Appropriate correction is required.

6. The disclosure is objected to because of the following informalities:

The present specification does not conform to U.S. practice. It is inappropriate for the applicant to include claim numbers in the specification. For example, on page 6, line 4, the phrase “in accordance with any one of claims 1 through 6” is inappropriate. Reference to any claim(s) in the specification must be removed and the subject matter of the claim(s) can be substituted therefor.

Appropriate correction is required.

7. The disclosure is objected to because of the following informalities:

Brief descriptions for Figures 10 and 11 are missing in the specification. Furthermore, there is an incomplete sentence at the top of page 18 of the specification.

On page 21, line 4, applicants state that coat layer 68 was mentioned previously and the Examiner cannot find in the specification where coat layer 68 was mentioned previously.

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Appropriate correction is required.

Claim Objections

8. Claims 5 and 7 are objected to because of the following informalities:

In claim 5, the phrase "selected among" should be "selected from the group consisting of" to provide for proper Markush language.

In claim 7, the phrase "fuel cells stack" should be "fuel cell stack".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 1-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1, 8, 10, 12, 14, 21, and, 23, the limitation "predetermined rugged shape" is indefinite because it is unclear how these "rugged shape" which is uneven is predetermined.

In term "thin plate" used throughout the claims is indefinite because it is a relative term not defined in the specification.

The term "predetermined" throughout the claims is indefinite because it is unclear what criteria are used for predetermining the subject matter following the term "predetermined".

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Claims depending from claims rejected under 35 USC 112, second paragraph are also rejected for the same.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

12. Claims 21-23 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Tajima et al. (US 4,225,654).

See Figures 1, and 3; col. 1, lines 10-12; col. 2, lines 22-60 of the reference.

13. Claims 1-7 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Mukohyama et al. (US 5,798,188).

The product-by-process limitations in claims 1-7 are not given patentable weight since these are product claims.

See Figure 1; col. 1, lines 15-30; col. 3, lines 5-35 of the reference.

14. Claims 1-9, 11, 16, 19, and 20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by JP 58-93170 (JPO English abstract).

See JPO English abstract and Figures 2 and 6 of the reference.

15. Claims 12-15, 21-23, 25, and 26 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Bossel (US 5,034,288).

See Figures 3 and 10; col. 4, line 55 to col. 5 line 19; column 6, lines 6-32 of the reference.

16. Claims 1-5, 7-11, 16-20, and 24 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Wilkinson et al. (US 5,521,018).

See Figures 5a, 5b, 7a and 7b; abstract, and col. 10, lines 24-39 of the reference.

17. Claims 1-26 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Yoshimura et al. (US 6,291,094 B1).

See Figures 4-11 and col. 6, line 6 to col. 16, line 35 of the reference.

18. Claims 1-5, 7-11, 16-20, and 24 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Walsh (US 6,096,450).

See Figures 4 and 5; and col. 4, lines 38-49; col. 6, line 63 to col. 8, line 39 of the reference.

Conclusion

19. Any inquiry concerning this communication or earlier communications should be directed to examiner Susy Tsang-Foster, Ph.D. whose telephone number is (703) 305-0588. The examiner can normally be reached on Monday through Friday from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached at (703) 308-2383. The phone number for the organization where this application or proceeding is assigned is (703) 305-5900.

The fax phone numbers for the organization where this application or proceeding is assigned is (703) 872-9310 for regular communications and (703) 872-9311 for After-Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

st/1 October 2002

Susy Tsang-Foster